

Michigan Journal of Environmental & Administrative Law

Volume 8 | Issue 2

2019

Front Matter

Michigan Journal of Environmental & Administrative Law

Follow this and additional works at: <https://repository.law.umich.edu/mjeal>

Recommended Citation

Michigan Journal of Environmental & Administrative Law, *Front Matter*, 8 MICH. J. ENVTL. & ADMIN. L. i (2019).

Available at: <https://repository.law.umich.edu/mjeal/vol8/iss2/1>

This Front Matter is brought to you for free and open access by the Journals at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Journal of Environmental & Administrative Law by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

*Michigan Journal of
Environmental & Administrative Law*

Volume 8, No. 2

Spring 2019

*University of Michigan Law School
Ann Arbor, Michigan*

Cite as: 8 MICH. J. ENVTL. & ADMIN. L. ____ (2019)

Except where otherwise expressly provided, the author of each piece of scholarship in this issue has granted permission for copies of that scholarship to be made in whole or in part by nonprofit institutions for educational use, including distribution to students, provided that (i) copies are distributed at or below cost; (ii) copies identify the author, the *Journal*, the volume, the number of the first page, and the year of publication; (iii) proper notice of copyright is affixed to each copy, attributing copyright to the author.

The *Michigan Journal of Environmental & Administrative Law* is published biannually by students of the University of Michigan Law School. Printed by Joe Christensen, Inc., Lincoln, Nebraska 68521.

Michigan Journal of Environmental & Administrative Law
University of Michigan Law Library
801 Monroe Street
Ann Arbor, MI 48109-1210
MJEAL.Business@umich.edu
<http://www.mjeal-online.org>

Publication Policy

The *Michigan Journal of Environmental & Administrative Law* will publish articles and student notes on all aspects of environmental law and policy, as well as administrative law topics that may apply to environmental law. The *Journal* will generally focus on the American legal system. However, it welcomes interdisciplinary and international scholarship that advances understanding of environmental and administrative law and policy. The *Journal* may publish any article that its editors believe will be consistent with these aims.

Subscriptions

The current subscription rate is \$35.00 domestic and \$45.00 foreign. All subscription inquiries should be made to mjeal.business@umich.edu. Subscribers should report the non-receipt of copies within six months of the mailing date. For more information, please see the Subscriptions page at the end of the *Journal*.

ISSN 2375-6276 (Print)
ISSN 2375-6284 (Online)

Michigan Journal of Environmental & Administrative Law

Volume 8

2018-2019

Editor in Chief

ALEXANDRA BARKER NOLL

Managing Editor

EMILY VAN DAM

Managing Production Editor

TOMMY LA VOY

Managing Articles Editor

GRANT SNYDER

Managing Notes Editor

TIMOTHY FEATHERSTON

Managing Executive Editor

JOSHUA M. LEVASSEUR

Articles Editors

VICTORIA ALLEN
NASH HALL
JOHN MINODE'E PETOSKEY
MEGAN STAMM

Notes Editors

ERIC ASHBY II
ALLY BEASLEY
ASHLEY YUILL
SIMONE PRINCE-EICHNER

Executive Editors

ERICA CHRISTIANSON
IRMA CRUZ
ADAM GERKEN
HALLIE LIPSEY

Senior Editor

JOAN CAMPAU

Junior Editor Coordinators

AUDREY ACKERMAN
ANGELICA LI

GRACE SMITH
KEVIN TODD

DAVID TREADAWAY
HENRY ZURN

Associate Editors

DESTINEE N. ANDREWS
ALAN D. BALDRIDGE
PARKS J. BARROSO
TIMOTHY FOLKERTH

MATTHEW MEYERHUBER
JAKE T. PARKER
SAMUEL G. RILEY
JACK ROSS

CHRISTOPHER N. SOUTHCOTT
GABRIELLE STEPHENS
HANNAH M. TAYLOR
GABRIEL VANLOOZEN

Contributing Editors

DANIELE DE OLIVEIRA NUNES

DAWN LUI
VIVIAN ROCHA GABRIEL

KAIJIE WU

Junior Editors

CHRIS BLYTHE
CONOR BRADLEY
WOENHO CHUNG
JONATHAN COUMES
MARIELLE COUTRIX
PHILLIP GASPERETTI
JACQUELIN GUIZMAN
SCOTT HAECK
JACK IGOE

NWAMA IKENZE
KEITH KETOLA
BENJAMIN LEMPERT
JARED LOOPER
EMMA MACFARLANE
JEFFREY MAY
EVAN NEUSTATER
JACKSON POWERS
WILLIAM QUISH

DANIELA SANCHEZ
NATHAN SANTOSCOY
EVERETT SECOR
KAMDEN SEGAWA
DANIEL STRELLMAN
TYLER THEEL
PHILLIP WASHBURN
SAMUEL WHITE
BRADY WILSON

UNIVERSITY OF MICHIGAN LAW SCHOOL

Administrative Officers

Mark Schlissel, B.A., M.D., Ph.D., *President of the University*
Martin A. Philbert, B.Sc., Ph.D., *Provost and Executive Vice President for Academic Affairs*
Mark D. West, B.A., J.D., *Nippon Life Professor of Law, Dean*
Bridgette Carr, B.A., J.D., *Clinical Professor of Law, Associate Dean for Strategic Initiatives*
Daniel Halberstam, B.A., J.D., *Eric Stein Collegiate Professor of Law, Associate Dean for Faculty and Research, Director of European Legal Studies Program*
Debra Chopp, B.A., J.D., *Clinical Professor of Law, Associate Dean for Experiential Education*
David Santacroce, B.A., J.D., LL.M., *Clinical Professor of Law, Associate Dean for Experiential Education*
Gil Seinfeld, A.B., J.D., *Professor of Law, Associate Dean for Academic Programming*
Michael Dubin, B.S., M.A., *Assistant Dean for Development and Alumni Relations*
Theresa Kaiser-Jarvis, B.A., B.S.J., Ed.M., J.D., *Assistant Dean for International Affairs*
Ramji Kaul, B.A., J.D., *Assistant Dean for Career Planning*
Bayrex Marti, B.A., J.D., *Assistant Dean for Student Life*
Lindsey Stetson, B.A., J.D., *Assistant Dean for Financial Aid*
Sarah C. Zearfoss, B.A., J.D., *Senior Assistant Dean for Admissions, Financial Aid, and Career Planning*

Professors Emeriti of Law

Layman E. Allen, A.B., M.P.A., LL.B.	Richard O. Lempert, A.B., J.D., Ph.D., <i>Eric Stein Distinguished University Professor of Law and Sociology</i>
David L. Chambers, A.B., LL.B., <i>Wade H. McCree, Jr. Collegiate Professor of Law</i>	Sallyanne Payton, B.A., LL.B., <i>William W. Cook Professor of Law</i>
Edward H. Cooper, A.B., LL.B., <i>Thomas M. Cooley Professor of Law</i>	Margaret Jane Radin, A.B., M.F.A., J.D., LL.D., <i>Henry King Ransom Professor of Law</i>
Donald N. Duquette, B.A., J.D. <i>Clinical Professor of Law</i>	Terrance Sandalow, A.B., J.D., <i>Edson R. Sunderland Professor of Law</i>
Philip M. Frost, B.A., J.D. <i>Clinical Professor of Law</i>	E. Philip Soper, B.A., M.A., J.D., Ph.D., <i>James V. Campbell Professor of Law</i>
Thomas A. Green, B.A., Ph.D., J.D., <i>John Philip Dawson Collegiate Professor of Law</i>	Theodore J. St. Antoine, A.B., J.D., <i>James E. and Sarah A. Degan Professor of Law</i>
Samuel R. Gross, A.B., J.D., <i>Thomas G. and Mabel Long Professor of Law</i>	Joseph Vining, B.A., M.A., J.D., <i>Harry Burns Hutchins Collegiate Professor of Law</i>
Jerold H. Israel, B.B.A., LL.B., <i>Alene and Allan F. Smith Professor of Law</i>	Lawrence W. Waggoner, B.B.A., J.D., D.Phil., <i>Lewis M. Simes Professor of Law</i>
Douglas A. Kahn, B.A., J.D., <i>Paul G. Kauper Professor of Law</i>	Peter K. Westen, B.A., J.D., <i>Frank G. Millard Professor of Law</i>
Yale Kamisar, A.B., LL.B., LL.D., <i>Clarence Darrow Distinguished University Professor of Law</i>	James Boyd White, A.B., A.M., LL.B., <i>L. Hart Wright Collegiate Professor of Law</i>
Thomas E. Kauper, A.B., J.D., <i>Henry M. Butzel Professor of Law</i>	James J. White, B.A., J.D., <i>Robert A. Sullivan Professor of Law</i>

Professors of Law

Kate Andrias, B.A., J.D.	Phoebe C. Ellsworth, A.B., Ph.D., <i>Frank Murphy Distinguished Professor of Law and Psychology</i>
Reuven S. Avi-Yonah, B.A., A.M., Ph.D., J.D., <i>Irwin I. Cohn Professor of Law</i>	Richard D. Friedman, B.A., J.D., D.Phil., <i>Alene and Allan F. Smith Professor of Law</i>
Samuel Bagenstos, B.A., J.D. <i>Frank G. Millard Professor of Law</i>	Bruce W. Frier, B.A., Ph.D., <i>John and Teresa D'Arms Distinguished University Professor of Classics and Roman Law</i>
Nicholas Bagley, B.A., J.D.	Monica R. Hakimi, B.A., J.D.
Michael S. Barr, B.A., M.Phil., J.D. <i>Roy F. and Jean Humphrey Proffitt Professor of Law</i>	Daniel Halberstam, B.A., J.D. <i>Eric Stein Collegiate Professor of Law</i>
Laura N. Beny, B.A., M.A., J.D., Ph.D.	James C. Hathaway, LL.B., LL.M., J.S.D., <i>James E. and Sarah A. Degan Professor of Law</i>
Evan H. Caminker, B.A., J.D. <i>Branch Rickey Collegiate Professor of Law</i>	Scott Hershovitz, A.B., M.A., D.Phil., J.D.
Sherman J. Clark, B.S., J.D. <i>Kirkland and Ellis Professor of Law</i>	Donald J. Herzog, A.B., A.M., Ph.D., <i>Edson R. Sunderland Professor of Law</i>
Daniel Crane, B.A., J.D. <i>Frederick Paul Furth, Sr. Professor of Law</i>	James Hines Jr., B.A., M.A., Ph.D., <i>L. Hart Wright Collegiate Professor of Law</i>
Steven P. Croley, A.B., J.D., M.A., Ph.D. <i>Harry Burns Hutchins Collegiate Professor of Law</i>	Nicholas C. Howson, B.A., J.D.
Kristina Daugirdas, A.B., J.D.	Ellen D. Katz, B.A., J.D. <i>Ralph W. Aigler Professor of Law</i>
Rebecca S. Eisenberg, B.A., J.D., <i>Robert and Barbara Luciano Professor of Law</i>	Vikramaditya S. Khanna, B.C.A., LL.B., S.J.D. <i>William W. Cook Professor of Law</i>

James E. Krier, B.S., J.D.,
Earl Warren DeLano Professor of Law
 Jessica D. Litman, B.A., M.F.A., J.D.,
John F. Nickoll Professor of Law
 Kyle D. Logue, B.A., J.D.,
*Wade H. and Dores M. McCree Collegiate
 Professor of Law*
 Catharine A. MacKinnon, B.A., J.D., Ph.D.,
Elizabeth A. Long Professor of Law
 Nina A. Mendelson, A.B., J.D.
Joseph L. Sax Collegiate Professor of Law
 Gabriel Mendlow, A.B., Ph.D., J.D.
 William I. Miller, B.A., Ph.D., J.D.,
Thomas G. Long Professor of Law
 Julian Davis Mortenson, A.B., J.D.
 William Novak, B.A., M.A., Ph.D.
Charles F. and Edith J. Clyne Professor of Law
 John A.E. Pottow, A.B., J.D.
John Philip Dawson Collegiate Professor of Law
 James J. Prescott, B.A., J.D., Ph.D.
 Eve Brensike Primus, B.A., J.D.
 Richard A. Primus, A.B., D.Phil., J.D.
*Theodore J. St. Antoine Collegiate Professor of
 Law*

Adam C. Pritchard, B.A., M.P.P., J.D.
Frances and George Skestos Professor of Law
 Steven R. Ratner, A.B., M.A., J.D.,
Bruno Simma Collegiate Professor of Law
 Donald H. Regan, A.B., LL.B., B.Phil., Ph.D.,
William W. Bishop, Jr. Collegiate Professor of Law
 Mathias W. Reimann, Dr.Iur., LL.M.,
Hessel E. Yntema Professor of Law
 Veronica Santarosa, LL.B., B.A., M.A., LL.M., Ph.D.
 Margo Schlanger, B.A., J.D.
Henry M. Butzel Professor of Law
 Carl E. Schneider, A.B., J.D.,
*Chauncey Stillman Professorship for Ethics, Morality,
 and the Practice of Law*
 Rebecca J. Scott, A.B., M.Phil., Ph.D.,
*Charles Gibson Distinguished University Professor of
 History*
 Gil Seinfeld, A.B., J.D.
 Bruno Simma, Doctorate of Law
 Sonja B. Starr, A.B., J.D.
 Christina B. Whitman, A.B., M.A., J.D.,
Francis A. Allen Collegiate Professor of Law

Assistant Professors of Law

Maureen Carroll, B.S., J.D.
 Nicolas Cornell, A.B., Ph.D., J.D.
 Edward Fox, B.A., J.D., Ph.D.
 W. Nicholson Price, II, A.B., J.D., Ph.D.
 Gabriel Rauterberg, B.S., J.D.

Clinical Professors of Law

Alicia Alvarez, B.A., J.D.
 Nicole Appleberry, A.B., J.D., LL.M.
 Edward R. Becker, B.A., J.D.
 Howard Bromberg, B.A., J.D., J.S.M.
 David A. Moran, B.S., B.A., M.A., M.S., J.D.
 Mark K. Osbeck, A.B., M.A., J.D.
 Paul D. Reingold, B.A., J.D.
 Nicholas J. Rine, B.A., J.D.
 Vivek Sankaran, B.A., J.D.
 Suelllyn Scamecchia, B.A., J.D.
 Kimberly A. Thomas, B.S., J.D.
 Dana Thompson, B.S., J.D.
 Frank E. Vandervort, B.A., J.D.
 Nancy Vettorello, B.A., M.U.P., J.D.
 Beth H. Wilensky, B.A., J.D.

Clinical Assistant Professors of Law

Matthew Andres, B.A., J.D.
 Patrick Barry, B.A., J.D., Ph.D.
 Elizabeth Campbell, B.A., J.D.
 Paul H. Falon, B.A., M.A., J.D.
 Steve Gray, B.A., J.D.
 David Guenther, B.A., M.A., J.D.
 Margaret Hannon, B.A., J.D.
 Joshua Kay, B.A., M.A., Ph.D., J.D.
 Sammy Mansour, B.A., J.D.
 Timothy Pinto, B.A., J.D.
 Oday Salim, B.A., J.D., LL.M.
 Amy Sankaran, B.A., J.D.
 Imran Syed, A.B., J.D.

Professors from Practice

J. Phillip Adams, B.A., J.D., LL.M.
 Timothy L. Dickinson, B.A., J.D., LL.M.
 Jennifer Haverkamp, B.A., M.A., J.D.
 Robert Hirshon, B.A., J.D.
*Frank G. Millard Professor from
 Practice*
 Barbara McQuade, B.A., J.D.
 Leonard Niehoff, A.B., J.D.
 David Uhlmann, B.A., J.D.,
*Jeffrey F. Liss Faculty Development Professor
 from Practice, Director of Environmental Law and
 Policy Program*

William W. Cook Global Law Professors

Susanne Baer, LL.M.
 Paul Brand, B.A., M.A., D.Phil
 Christine Chinkin, LL.B., LL.M., Ph.D.
 John G. H. Hudson, M.A., D.Phil
 Haw-Jin Kim, B.S., Dr. Jur., LL.M.
 J. Christopher McCrudden, LL.B., LL.M., D.Phil
 Anne Peters, LL.M.

*Michigan Journal of
Environmental & Administrative Law*

Volume 8, No. 2

Spring 2019

TABLE OF CONTENTS

ARTICLES

Prosecutorial Discretion and Environmental Crime Redux:
Charging Trends, Aggravating Factors, And Individual Outcome
Data For 2005-2014 297
– *David M. Uhlmann*

Can a State's Water Rights Be Dammed? Environmental Flows
And Federal Dams In The Supreme Court 371
– *Reed D. Benson*

Reconciling Police Power Prerogatives, Public Trust Interests,
and Private Property Rights Along Laurentian Great Lakes
Shores...409
– *Richard K. Norton and Nancy H. Welsh*

NOTES

Examining the Administrative Unworkability of Final Agency
Action Doctrine as Applied to the Native American Graves
Protection and Repatriation Act 477
– *Adam Gerken*

The Locked Gates to Tension City: The Commission on
Presidential Debates, the FEC, and the Two-Party System.....499
– *Tommy La Voy*